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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/696,193 | 10/29/2003 | Gerard J. Matern | LGPL | 6550 |

5251 7590 08/25/2004

SHOOK, HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY,, MO 64108

EXAMINER

NELSON JR, MILTON

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3636

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,193

Applicant(s)

MATERN ET AL.

Examiner

Milton Nelson, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 10-15, 17, 21, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 4, 9, 16, 18-20, 22, 23 and 26-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The information referred to in the information disclosure statement filed October 29, 2003 has been considered.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes reference to the "invention". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 21, "said insert" lacks proper antecedent basis. In claim 21, "said track" lacks proper antecedent basis. In claim 24, "the tip" lacks proper antecedent basis. In claim 24, "said mounting member" lacks proper antecedent basis. In claim 25, "said mounting posts" lack proper antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 8, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng (5318347) in view of Piretti (6540300).

Tseng shows all claimed features of the instant invention with the exception of a resilient biasing member projecting forwardly (claim 1); the biasing member is a depending finger (claim 3); the depending finger projecting below the tongue (claim 5); the biasing member projects forwardly to engage an inner

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wall of the sleeve and biases the tongue rearwardly towards the slots on the support (claim 12). In Tseng, note the leverage body (4), handle (42), pivot pins (41, 41), tongue (43), sleeve (2), pivot seats (26), support (12), ribs (22), and slots (121).

Piretti teaches the conventional concept of configuring an adjustable armrest assembly with a resilient biasing member projecting forwardly (12), wherein the biasing member is a depending finger; the depending finger projecting below a tongue (lowermost end of 9, as seen in Figures 1 and 10); wherein the biasing member projects forwardly to engage an inner wall of a sleeve and biases the tongue rearwardly towards slots on the support (see Figure 1).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Tseng in view of the teachings of Piretti by configuring the armrest assembly with a resilient biasing member projecting forwardly by replacing members 421 and 25 with member 12 (claim 1); wherein the biasing member is a depending finger (claim 3); wherein the depending finger projects below the tongue (claim 5); wherein the biasing member projects forwardly to engage an inner wall of the sleeve and biases the tongue rearwardly towards the slots on the support (claim 12). These modifications enhance engagement and selective disengagement of the assembly for user adjustment.

Claims 6, 7, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng (5318347) in view of Piretti (6540300), as applied to claims 2 and 10 above, and further in view of Gollin et al (5997093).

Tseng, as modified above, shows all claimed features of the instant invention with the exception of the leverage body being made of a material suitable for integrally forming the handle, the pivots pins, the tongue and the resilient biasing member in an injection-molding operation (claim 6); the material being plastic (claim 7); the sleeve being made of a material suitable for forming the pivot seats and the ribs in an injection-molding operation (claim 17).

Gollin et al teaches the conventional concept of configuring an armrest assembly wherein its parts are made of a material suitable for integrally forming the parts in an injection-molding operation; wherein the material is plastic. Note column 4 of Gollin et al.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify Tseng in view of the teachings of Gollin et al by configuring the assembly from a material suitable for integrally forming the handle, the pivots pins, the tongue and the resilient biasing member in an injection-molding operation (claim 6); the material being plastic (claim 7); the sleeve being made of a material suitable for forming the pivot seats and the ribs in an injection-molding operation (claim 17). Such provides a conventional, durable and readily available material for forming an armrest assembly.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng (5318347) in view of Piretti (6540300), as applied to claim 11 above, and further in view of Mei (6062647).

Tseng, as modified above, shows all claimed features of the instant invention with the exception of a vertical groove joining all of the slots on the support (claim 13); the tongue of the leverage body including a base and a tip, and the tip of the tongue being adapted to continuously engage the vertical groove when the base of the tongue is disengaged from the slots during height-adjustment of the mechanism by an operator (claim 14); wherein the tip of the tongue includes a ramped surface on its lower portion (claim 15).

Mei teaches the conventional concept of configuring an armrest assembly with a vertical groove (21) joining all of the slots (22) on a support (20); the tongue of the leverage body including a base and a tip, and the tip of the tongue being adapted to continuously engage the vertical groove when the base of the tongue is disengaged from the slots during height-adjustment of the mechanism by an operator (see column 3, paragraph 5); wherein the tip of the tongue includes a ramped surface on its lower portion (note section 57 is smaller than section 56).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify Tseng in view of the teachings of Mei by configuring the assembly with a vertical groove joining all of the slots on the support (claim 13); the tongue of the leverage body including a base and a tip, and the tip of the tongue being adapted to continuously engage

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the vertical groove when the base of the tongue is disengaged from the slots during height-adjustment of the mechanism by an operator (claim 14); wherein the tip of the tongue includes a ramped surface on its lower portion (claim 15). These modifications enhance adjustment and locking of the assembly by providing an arrangement where the adjustment/locking assembly is continuously engaged.

Allowable Subject Matter

Claims 4, 9, 16, 18, 19, 20, 22, 23 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21, 24 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

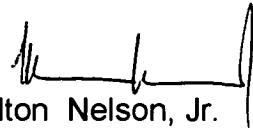
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.
Primary Examiner
Art Unit 3636

mn
August 22, 2004